GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Environment, Forests, Science & Technology Department – Rules prescribing the qualifications to the Chairman, Member Secretary and Members of the Andhra Pradesh Pollution Control Board (APPCB) - Notification – Issued.

ENVIRONMENT, FORESTS, SCIENCE & TECHNOLOGY (SEC.I) DEPARTMENT

G.O.Ms.No.72 **Dated:11.12.2021.**
Read the following: -

1) Orders of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A. No. 318 of 2013, dated. 24.08.2016.
2) Orders of the Hon'ble Supreme Court of India in C.A.No.4936/2017, dated. 22.09.2017.
3) Letter No.1/APPCB/CA No. 4936 of 2017/Legal/2017, dated. 30.01.2021 Andhra Pradesh Pollution Control Board.
4) G.O.Ms.No.24, Environment, Forests, Science & Technology (Sec.I) Department, dated 30.04.2021.
5) From the Advocate-on-Record, Supreme Court of India, New Delhi, Letter, dated 17.11.2021.
6) From the Head of the Department, Department of Environmental Sciences, Andhra University, letter, dated 01.12.2021.
7) From Sri V. Srinivas Chary, Director, Centre for Environment, Urban Governance & Infrastructure Development, ASCI, Hyderabad, letter, dated 08.12.2021.

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ORDER:-

The Hon'ble Supreme Court of India in its orders second read above, while setting aside the orders of the Hon'ble National Green Tribunal (NGT) in the first read above, have issued certain guidelines to the States and Union Territories in respect of qualifications of the Chairman, Member Secretary and Members of the State Pollution Control Board, as follows:

> *"Keeping the above in mind, we are of the view that it would be appropriate, while setting aside the judgment and order of the NGT, to direct the Executive in all the States to frame appropriate guidelines or recruitment rules within six months, considering the institutional requirements of the SPCBs and the law laid down by statute, by this Court and as per the reports of various committees and authorities and ensure that suitable professionals and experts are appointed to the SPCBs. Any damage to the environment could be permanent and irreversible or at least long-lasting. Unless corrective measures are taken at the earliest, the State Governments should not be surprised if petitions are filed against the State for the issuance of a writ of quo warranto in respect of the appointment of the Chairperson and members of the SPCBs. We make it clear that it is left open to public spirited individuals to move the appropriate High Court for the issuance of a writ quo warranto if any person who does not meet the statutory or constitutional requirements is appointed as a Chairperson or a member of any SPCB or is presently* continuing as such."

2. The Apex Court has also directed the State Governments to frame appropriate guidelines or recruitment rules within a period of six (6) months from the date of pronouncement of the orders.

3. In pursuance of the above orders, the Member Secretary, Andhra Pradesh Pollution Control Board has submitted draft rules in respect of the Chairman, Member Secretary and Members of the Andhra Pradesh Pollution Control Board (APPCB), Vijayawada.

4. In the G.O. fourth read above, Government in exercise of the powers conferred under clause (a) & (e) of sub-section (2) of Section 64 of the Water (Prevention and Control of Pollution) Act, 1974 made the rules regulating the qualifications and other terms and conditions of the Chairman, Member Secretary and Member of the Andhra Pradesh Pollution Control Board.

5. In the letter fifth read above, the Advocate-on-Record, Supreme Court of India, New Delhi has informed about the deficiencies pointed by the Hon'ble Supreme Court of India in the said rules and requested to carry out amendments to the Rules already issued.

6. Government have examined the said deficiencies in consultation with the Andhra University, Visakhapatnam and the Administrative Staff College of India, Hyderabad.

7. Government, after careful consideration of the entire issue duly taking into account the advice given by the Andhra University, Visakhapatnam and the Administrative Staff College of India, Hyderabad, decided to issue rules, in supersession of the orders issued in G.O.Ms.No.24, Environment, Forests, Science & Technology (Sec.I) Department, dated 30.04.2021 and rule 7 and 9 of the Andhra Pradesh Water (Prevention and Control of Pollution) Rules, 1976, prescribing Educational Qualifications for the Chairman, Member Secretary and Members of the Andhra Pradesh Pollution Control Board and also the powers and duties between the Chairman and Member Secretary of the Andhra Pradesh Pollution Control Board, notwithstanding any provisions in any other rules / regulations in exercise of the powers conferred under Section 64 of the Water (Prevention & Control of Pollution) Act, 1974.

8. Accordingly, the following notification will be published in the Extra-ordinary issue of the Andhra Pradesh Gazette, dated 11.12.2021.

NOTIFICATION

In supersession of the orders issued in G.O.Ms.No.24, Environment, Forests, Science & Technology (Sec.I) Dept., dated 30.4.2021 and rule 7 and rule 9 of the Andhra Pradesh Water (Prevention and Control of Pollution) Rules, 1976, in exercise of the powers conferred by clause (a), (e) and (g) of sub-section (2) of Section 64 of the Water (Prevention and Control of Pollution) Act, 1974, (Act No.6 of 1974) read with sub-section (2) of section 4 of the said Act, notwithstanding anything contained in the provisions in any other rules / regulations, the State Government hereby makes the following Rules regulating the qualifications and other terms and conditions of service and powers and duties of the Chairman, Member Secretary and Members in the Andhra Pradesh Pollution Control Board, namely: -

1. Short title and commencement:-

(a) These rules may be called the "Andhra Pradesh Pollution Control Board (Qualifications and other terms and conditions of service

and powers & duties of Chairman, Member Secretary and other Members) Rules, 2021".

(b) They shall come into force on the date of publication in the Official Gazette.

2. Definitions:- In these Rules, unless the context otherwise requires, -

(a) "Act" means the Water (Prevention and Control of Pollution) Act, 1974 (Act No.6 of 1974);

(b) "Andhra Pradesh Pollution Control Board" means the Andhra Pradesh Pollution Control Board constituted under section 4 of the Act;

(c) "Chairman" means the Chairman of the Andhra Pradesh Pollution Control Board;

(d) "Member Secretary" means the Member Secretary of the Andhra Pradesh Pollution Control Board;

(e) "Member" means a Member of the Board and includes the Chairman thereof.

3. Education and other qualifications:-

A. Educational Qualification and Experience for Appointment of Chairman:

No person shall be eligible for being selected for nomination as the Chairman under clause (a) of sub-section (2) of Section 4 of the Act, unless,

a) He / She possesses Degree in Engineering / Technology with Environmental Engineering as a subject in the course or Post Graduate in Life Sciences / Earth Sciences / Physical Sciences with Ecology / Environment as one subject in the course or M.B.A. in Environmental Management / Sustainability / Climate Change or Post Graduate in Environmental Sciences.

b) He / She should be an All India Service Officer either in service or retired with 15 years of experience.

c) He / She should have demonstrated knowledge and experience relating to the environment protection.

d) Selection should be through a Committee headed by Chief Secretary as Chairman and the Secretary to Government, Industries & Commerce Department and two experts as members to be nominated by the Government, the Secretary to Government, Environment, Forests, Science & Technology Department shall be Member-Convener of the Committee.

e) Chairman shall be appointed for whole time or part-time.

f) Minimum age shall be 45 years.

B. Educational Qualification and Experience for Appointment of Member Secretary:

No person shall be eligible for being selected for appointment as the Member Secretary under clause (f) of sub-section (2) of Section 4 of the Act, unless, he / she is an AIS officer of State Government meeting the qualification and experience stated below:

(a) He / She shall possess Degree in Engineering / Technology with Environmental Engineering as a subject in the course or Post Graduate in Life Sciences / Earth Sciences / Physical Sciences with Ecology / Environment as one subject in the course or M.B.A. in Environmental Management / Sustainability / Climate Change or Post Graduate in Environmental Sciences.

(b) He / She should have 10 years of service.

(c) He / She should have special knowledge and experience relating to the environment protection.

C. Appointment as Member (s):

1) Only the following categories of Officials/ Non-Officials / Experts / Persons shall be eligible for nomination as Member as per clauses (b), (c), (d) and (e) of sub-section (2) of section 4 of the Act: -

(a) Government Officials not below the rank of Joint Secretary to the Government representatives from different Government Departments having concern to Pollution Control and Management.

(b) Persons, associated / working under local authorities functioning within the state as representative of local authorities.

(c) Experts in agriculture, fishery, industry, education related to environment or any other field, which in the opinion of the Government is important for pollution control management as non-official member.

(i) Educational Qualification:- One must be a Graduate in Agriculture / Fishery / Trade / Commerce/ Law / Social Sciences / Science / Humanities / Engineering.

(ii) Selection shall be through a Committee headed by the Secretary to Government, Environment, Forests, Science & Technology Department with Commissioner of Fisheries, Commission of Industries / Commissioner of Agriculture, Commissioner of Transport as Members and Member Secretary of Andhra Pradesh Pollution Control Board as Member Convener.

(d) Managing Directors of Companies or Corporations owned, controlled or managed by the Government.

4. Nomination of Chairman and Members, and appointment of Member Secretary of the Board:-

(a) Chairman: The State Government shall nominate the Chairman possessing qualifications and experience as mentioned in Rule 3 above.

(b) Member Secretary: The State Government shall appoint the Member Secretary of the Board.

(c) Members of the Board: The Members of the Board shall be nominated by the State Government within the prescribed limit and the numbers stated in the Act as follows: -

i. Such number of Officials, not exceeding five (5), to be nominated by the State Government to represent the State Government.

ii. Such number of persons, not exceeding five (5), to be nominated by the State Government from amongst the Members of Local Authorities functioning within the State.

iii. Such number of non-officials, not exceeding three (3), to be nominated by the State Government to represent the interest of Agriculture, Fishery or Industry or Trade or Labour or any other interests which, in the opinion of the State Government, ought to be Represented. Selection process shall be as indicated above.

iv. Two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by the State Government.

5. Terms and conditions of Service of Members:-

(a) A Member of the Board, other than the Member Secretary, shall hold office for a term of three (3) years from the date on which his / her nomination is notified in the Official Gazette. Provided that a Member shall, notwithstanding the expiration of his / her term, continue to hold office until his / her successor enters upon his / her office.

(b) The term of office of a Member of a Board nominated under clause (i) or clause (ii) or clause (iv) of sub-rule (c) of Rule 4 shall come to an end as soon as he / she ceases to hold office under the State Government or local authority or the Company or Corporation owned, controlled or managed by the State Government, by virtue of which he / she was nominated.

(c) The term of office of a Member of a Board nominated under clause (iii) of sub rule (c) of Rule 4 shall come to an end as soon as the term of the Board ends.

(d) The State Government may, if it thinks fit, remove any Member of the Board before the expiry of his / her term of Office, after giving him/her a reasonable opportunity of showing cause against the same.

(e) A member of the Board, other than the Member Secretary, may at any time resign his office by writing under his / her hand addressed –

(i) In case of the Chairman, to the State Government; and

(ii) In any other case, to the Chairman of the Board, and the seat of the Chairman or such other Member shall thereupon become vacant.

(f) A Member of the Board, other than the Member Secretary, shall be deemed to have vacated his / her seat if he / she is absent without reason, sufficient in the opinion of the Board, from three consecutive meetings of the Board or where he / she is nominated under Clause (ii) or Clause (iv) of Sub-rule (c) of Rule 4, if he / she ceases to be a Member of the State Board or of the local authority or, of the company or corporation owned, controlled or managed by the State Government and such vacation of seat shall, in either case, take effect from such date as the State Government may, by notification in the Official Gazette, specify.

(g) A casual vacancy in the Board shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he / she was nominated.

6. Disqualifications:-

(a) No person shall be a Member of the Board constituted under this Act, who –

(i) is, or at any time has been, adjudged insolvent, or

(ii) is of unsound mind and has been so declared by a competent court, or

(iii) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(iv) is, or at any time has been, convicted of an offence under this Act, or

(v) has directly or indirectly by himself / herself or by any partner, any share of interest in any firm or company carrying on the business of manufacture, sale or hire of machinery, industrial plant, control equipment or any other apparatus for the improvement of the quality of air or for the prevention, control or abatement of air pollution, or

(vi) is a director or a secretary, manager or other salaried officer or employee of any company or firm having any contract with the Board, or with the State Government constituting the Board, or with a local authority in the State or with a company or corporation owned, controlled or managed by the Government, for the carrying out of programmes for the improvement of the quality of air or for the prevention, control or abatement of air pollution; or

(vii) has so abused, in the opinion of the State Government, his / her position as a member, as to render his / her continuance on the State Board detrimental to the interests of the general public.

(b) The State Government shall, by order in writing, remove any member who is, or has become, subject to any disqualification mentioned in sub-rule. Provided that no order of removal shall be made by the State Government under this section unless the member concerned has been given a reasonable opportunity of showing cause against the same.

(c) Notwithstanding anything contained in sub-rule (a) of rule 5, a member who has been removed under this Rule shall not be eligible to continue to hold office until his / her successor enters upon his / her office, or, as the case may be, for re-nomination as a member.

7. Vacation of seats by Members:-

If a member of the Board becomes subject to any of the disqualifications specified in rule 6, his / her seat shall become vacant.

8. Meetings of the Board:-

(a) For the purposes of this rule, Board shall meet at least once in every three months and shall observe such Rules of procedure in regard to the transaction of business at its meetings.

Provided that if, in the opinion of the Chairman, any business of an urgent nature is to be transacted, he / she may convene a meeting of the Board at such time as he / she thinks fit for the aforesaid purpose.

(b) Copies of the minutes of the meetings of the Board shall be forwarded to the State Government.

9. Powers & Duties of Chairman and Member Secretary:-

(A) Powers and Duties of Chairman:

1) The Chairman shall be the Chairman of the State Board.

2) The Chairman may undertake tours within the State for carrying out the functions of the State Board:

Provided that he shall keep the State Government and the State Board, informed of his tours.

3) The Chairman, may, with the prior approval of the State Government visit any place outside the State.

4) The Chairman shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Government.

5) The power to grant any type of leave to Chairman shall be with the Government.

(B) Powers and Duties of Member Secretary:

(1) The Member Secretary shall have overall control over the day-to-day activities of the Board and he shall be the Chief Executive Officer of the Board and he shall have all powers necessary thereof.

(2) The Member Secretary shall convene all internal committees and monitor them. The Member Secretary shall be designated authority for issue, amend, reject and withdrawal of the consents under Water & Air Acts and various authorizations under the Environment (Protection) Act, 1986. The Member Secretary shall be designated authority to issue directions, including closure and revocation, under Water & Air Acts and the Environment (Protection) Act, 1986.

(3) The Member Secretary shall be the custodian of all movable and immovable properties and assets of the Board.

(4) Subject to the general financial rules and service rules of the government, the Member Secretary shall have powers in respect of appointment of employees of the Board, initiation of disciplinary proceedings, transfers and postings, sanction of leaves, travelling allowances, reimbursement of medical expenses, loans and advances to all the employees subordinate to him. However, the power to grant any type of leave to the Member Secretary shall be with the Government.

(5) The Member Secretary shall be competent to settle all bills relating to sanctioned schemes for which there is a provision in the budget, provided that any non-securing expenditure in excess of Rs. 1.00 Crore shall be incurred only with the approval of the Board.

(6) The Member-Secretary shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

VIJAY KUMAR G.Srkr
SECRETARY TO GOVERNMENT

To
The Commissioner, Printing Stationary & Stores Purchase, Vijayawada (with a request to publish the Notification in Andhra Pradesh Extraordinary Gazette and supply 50 copies of the same Gazette).
The Chairman, A.P. Pollution Control Board, Vijayawada,
The Member Secretary, A.P. Pollution Control Board, Vijayawada,
The Members of the Board through the Member Secretary, A.P. Pollution Control Board, Vijayawada.
Copy to:-
All Departments of A.P. Secretariat.

All Heads of Departments, Government of Andhra Pradesh.
All the Collectors & District Magistrates in Andhra Pradesh.
The Joint Secretary, Government of India, Ministry of Environment and Forests & Climate Change, 3rd Floor, Indira Paryavaran Bhavan, Jor Bagh, New Delhi – 110003.
The Member Secretary, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, New Delhi-110032.
The PS to Additional Secretary to CM.
The PS to Minister (Energy, EFS & T).
The PS to Chief Secretary to Government.
The PS to Secretary to Government, E.F.S. & T. Department.
SF/SC (Computer No. 1314355).

// FORWARDED::BY ORDER //

SECTION OFFICER